

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA
Plaintiff,

-vs-

Case No.10-20123
Hon. Victoria A. Roberts

KRISTOPHER T. SICKLES
Defendant.

**DEFENDANT SICKLES' COMBINED MOTION AND BRIEF
FOR REVOCATION OF ORDER OF DETENTION**

NOW COMES the Defendant, KRISTOPHER T. SICKLES, by and through his counsel, HENRY M. SCHARG, and respectfully moves this Honorable Court, pursuant to 18 U.S.C. § 3145(b), to examine the Order of Detention entered by Magistrate Judge Donald A. Scheer on April 2, 2010. Mr. Sickles further requests that this Court issue an Order releasing defendant on bond pending trial of this matter, pursuant to 18 U.S.C. 3142(a). In support of said motion, Mr. Sickles files the accompanying brief and states as follows:

1. That on April 1, 2010, Kristopher Sickles was charged in a five (5) count Indictment with Seditious Conspiracy, in violation of 18 USC §2384; Attempt to Use Weapons of Mass Destruction, in violation of 18 USC §2332a(a)(2); and Carrying, Using and Possessing a Firearm During and in Relation to a Crime of Violence, in violation of 18 USC §924(c).

2. That a detention hearing took place before Magistrate Judge Donald A. Scheer on April 1, 2010 and April 2, 2010. The government sought to detain Mr. Sickles by way of a proffer. After oral argument from counsel, Magistrate Judge Scheer ordered that Mr. Sickles should be detained pending trial. Magistrate Judge Scheer found that the government had established by a preponderance of the evidence that Mr. Sickles is a risk of flight and by and convincing evidence that Mr. Sickles posed a danger to the community.
3. The Bail Reform Act, 18 USC 3142, governs release pending trial. This Court's review of detention is de novo. *United States v Hazime*, 762 F.2d 34, 36 (6th Cir. 1985). This Court must make an independent determination of the proper pretrial detention or conditions of release.
4. That the District Court's authority to vacate or revoke detention order is found in 18 U.S.C. 3145(b). In reviewing the previous denial of bail by a magistrate judge, the district court must ultimately decide the issue of detention without deference to the magistrate judge's conclusion. *United States v Koenig*, 912 F.2d 1190, 1192 (9th Cir. 1990).
5. Mr. Sickles poses neither a danger to the community, nor is he a risk of flight under 18 U.S.C. 3142(f).
6. Mr. Sickles is 27 years old, married, with 2 minor children, and has resided in the northwest Ohio area for most of his life. Mr. Sickles has one prior misdemeanor conviction for disseminating materials harmful to minors.

7. That if Mr. Sickles was released from custody, he would reside in Sandusky, Ohio with his wife Kelly, and their two sons, Kristopher Jr. (4 years old and Gage (8 months)).
8. Mr. Sickles would consent to a tether, global positioning system, surrender of his passport and a curfew to address any concerns that the Court might have, and report to Pretrial Services as directed.
9. That Mr. Sickles would not associate, contact or communicate with any militia or paramilitary groups, and would not participate in any militia or paramilitary activities during the pendency of this criminal prosecution.
10. Given Mr. Sickles's strong ties to the Northwest Ohio community of Sandusky, there are conditions, as stated in 18 U.S.C. 3142 (c) which could be imposed that would assure the safety of the community and Mr. Sickles's appearance in Court.

WHEREFORE, Defendant Sickles respectfully requests that this Court revoke the Order of Detention entered on August 2, 2010, and instead enter an Order releasing Mr. Sickles on an unsecured bond, with appropriate conditions, pending trial in this matter.

Respectfully submitted,

s/ Henry M. Scharg (P-28804)
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Dated: April 11, 2010

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CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2010, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will automatically send notification of such filing to opposing counsel

Respectfully Submitted:

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